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TO AMEMBASSY TOKYO PRIORITY

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TAGS: OEXC, JA

SUBJECT: GARIOA: CONVERTIBILITY OF YEN TO DOLLARS FOR
----- INVESTMENT IN USG SECURITIES

REF: A)TOKYO 5368 OF APRIL 23, 1974; B) STATE 273540

SUMMARY: FRIENDSHIP ACT AUTHORIZES INVESTMENT REMAINING
GARIOA MONEY IN U.S. OBLIGATIONS IN TRUST FUND, THUS
NECESSITATING TEMPORARY CONVERSION YEN TO DOLLARS FOR LATER
RECONVERSION TO YEN AND EXPENDITURE IN JAPAN AS PER 1962
EXCHANGE OF NOTES. EMBASSY REQUESTED SOUND OUT FONOFF AND
INFORM DEPT. ITS REACTION.

1. AS EMBASSY WILL RECALL FROM REFTEL A), GOJ FOREIGN
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MINISTRY (HORI) IN PAST HAS OPPOSED ACCEPTING PRINCIPLE

OF CONVERTIBILITY OF GAROIA FUNDS REMAINING IN U.S. TREASURY ACCOUNTS IN JAPAN, ARGUING THAT WHILE ORIGINAL GAROIA AGREEMENT WOULD HAVE ALLOWED U.S. TO HAVE FUNDS IN DOLLARS, SUBSEQUENT KOSAKA-REISCHAUER EXCHANGE OF NOTES HAD EFFECT OF WAIVING PRIOR RIGHT TO DOLLAR CURRENCY, SPECIFYING YEN EXPENDITURES IN JAPAN. HORI BELIEVED CONVERTIBILITY OF GAROIA FUNDS WOULD REQUIRE AMENDMENT NOT OF ORIGINAL AGREEMENT, BUT OF EXCHANGE OF NOTES. SUCH AMENDMENT WOULD, HORI CONCLUDED, HAVE TO GO TO DIET.

2. PUBLIC LAW 94-118 (JAPAN-U.S. FRIENDSHIP ACT) AUTHORIZES ESTABLISHMENT OF A TRUST FUND IN THE U.S. TREASURY. THE ACT WOULD TRANSFER TO THIS FUND REMAINING GAROIA MONIES (NOW ESTIMATED AT ABOUT 12 MILLION DOLLARS), AFTER OKINAWA EXPO EXPENSES ARE COVERED, AND 7.5 OF THE EQUIVALENT OF PAYMENTS BY THE GOJ TO THE USG FOR THE RETURN OF THE RYUKYU AND DAITO ISLANDS (24 MILLION DOLLARS). THE ACT AUTHORIZES THE SECRETARY OF THE TREASURY TO INVEST SUCH PORTION OF THE FUND AS IS NOT, IN THE JUDGMENT OF THE COMMISSION, REQUIRED TO MEET CURRENT WITHDRAWALS. SUCH INVESTMENT MAY BE MADE ONLY IN INTEREST-BEARING OBLIGATIONS OF THE UNITED STATES OR IN OBLIGATIONS GUARANTEED AS TO BOTH PRINCIPAL AND INTEREST BY THE UNITED STATES" (SEC. 7 (B)). INTEREST FROM THESE INVESTMENTS WOULD ACCRUE TO THE FUND BUT WOULD BE SUBJECT TO THE APPROPRIATION PROCESS BEFORE BEING EXPENDED.

3. THE ACT SPECIFICALLY STIPULATES THAT THE GAROIA MONIES TO BE TRANSFERRED TO THE FUND MUST RPT MUST BE SPENT IN JAPAN. OBVIOUSLY THIS MEANS THAT THE MONIES MUST BE RECONVERTED TO YEN.

4. GIVEN REQUIREMENTS STIPULATED IN PARA TWO ABOVE, THE GAROIA FUNDS NEED TO BE CONVERTED TO DOLLARS IN ORDER TO BE INVESTED IN U.S. SECURITIES, EVEN THOUGH THE EVENTUAL EXPENDITURE WILL BE IN YEN IN JAPAN. IN SHORT, WHAT WILL BE REQUIRED IS A TEMPORARY, TECHNICAL CONVERSION TO U.S. DOLLARS FOR INVESTMENT PURPOSES, WITH LATER EXPENDITURE IN JAPAN OF AT LEAST THE GAROIA AMOUNT REQUIRED BY LAW.

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5. AN ALTERNATIVE AND FALL-BACK PROCEDURE COULD BE THE TECHNICAL SOLUTION ORIGINALLY SUPPORTED BY HORI (REFTEL A, PARA 5) WHEREBY THE U.S. TREASURY BUYS THE GAROIA YEN FOR U.S. GOVERNMENT YEN REQUIREMENTS IN JAPAN, DEPOSITING EQUIVALENT AMOUNT OF DOLLARS IN TRUST FUND. THE YEN WOULD BE USED FOR VARIOUS USG EXPENDITURES IN JAPAN, INCLUDING CULTURAL AND ADMINISTRATIVE/MILITARY; THERE

WOULD NOT BE EVEN TEMPORARY CONVERSION OF GARIOA MONIES AS IN THE FIRST ALTERNATIVE. UNDER THIS PROCEDURE, THE RATE AT WHICH THE DOLLARS ARE PUT INTO THE TRUST FUND MUST MATCH THE RATE AT WHICH THE YEN ARE SPENT IN JAPAN. HOWEVER, INASMUCH AS U.S.G. ANNUAL YEN EXPENDITURES ARE CONSIDERABLE, THE REMAINING GARIOA FUNDS WOULD MOST LIKELY BE USED UP IN LESS THAN A MONTH AND THE EQUIVALENT DOLLAR AMOUNT WOULD THUS BE EARNING INTEREST FAIRLY RAPIDLY. THE VIRTUE OF THIS ALTERNATIVE IS THAT THE CONVERSION ISSUE IS ENTIRELY AVOIDED.

6. COMMENT: THE ABOVE TWO ALTERNATIVES APPEAR TO BE ONLY WAY FOR GARIOA YEN EQUIVALENT TO BE PUT INTO TRUST FUND. SINCE FRIENDSHIP ACT HAS BEEN WARMLY WELCOMED BY GOJ LEADERS AND SINCE GARIOA EXPENDITURE IN JAPAN IS NOW ASSURED BY LAW, FOREIGN MINISTRY SHOULD FIND IT EASIER TO BE COOPERATIVE ON THIS PURELY TECHNICAL PROCEDURE WHICH IN NO WAY DENIES OR INVALIDATES THE KOSAKA-REISHAUER PROVISIO THAT DISBURSEMENT OF REMAINING GARIOA MONIES BE IN JAPAN. IN FACT, WITH NEW LAW ON BOOKS SPECIFICALLY REQUIRING GARIOA USE IN JAPAN, THERE MAY NOT NOW BE ANY NEED FOR FONOFF TO RAISE ISSUE WITH DIET. MOREOVER, DEPARTMENT (AND TREASURY) PREFER TEMPORARY CONVERTIBILITY PROCEDURE TO SECOND FALL-BACK ALTERNATIVE BECAUSE: (1) IT ASSURES IMMEDIATE INVESTMENT OF EQUIVALENT DOLLARS IN TRUST FUND AND (2) IT AVOIDS INVITING GOJ TO RAISE POSSIBLE ISSUE THAT GARIOA YEN SOLD TO USG FOR MISSION-WIDE EXPENSES IN JAPAN WOULD NOT BE USED EXCLUSIVELY FOR EDUCATIONAL/ CULTURAL ACTIVITIES AS DESCRIBED IN 1962 NOTES. HOWEVER, TO RESTRICT YEN EXPENDITURES TO CULTURAL/EDUCATIONAL

ACTIVITIES ONLY CREATES SERIOUS PROBLEM BECAUSE INSUFFICIENT USG YEN REQUIREMENTS IN STRICTLY CULTURAL LIMITED OFFICIAL USE

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FIELDS WOULD MEAN THAT PROCESS OF TRANSFERRING MONIES TO DOLLAR TRUST FUND WOULD TAKE AT LEAST SEVERAL YEARS, PREVENTING RAPID ESTABLISHMENT IN TRUST FUND OF DOLLAR EQUIVALENT OF ALL REMAINING GARIOA MONIES.

7. ACTION: EMBASSY REQUESTED TO PROBE FONOFF ON FIRST OPTION WHICH IS DEPARTMENT'S PREFERRED POSITION, BROACHING SECOND ALTERNATIVE IF GOJ REPLY IS NEGATIVE. ADVISE SOONEST ON GOJ REACTION. INGERSOLL

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